

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

CLAUDE DEMSTER
Claimant

VS.

THE FAGAN COMPANY
Respondent
Self-Insured

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Docket No. 222,464

ORDER

Respondent appeals from an Award entered by Administrative Law Judge Julie A. N. Sample on December 22, 1998.

APPEARANCES

Jon K. Lowe of Kansas City, Missouri, appeared on behalf of claimant. Eric T. Lanham of Kansas City, Kansas, appeared on behalf of respondent, a qualified self-insured.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopted the stipulations listed in the Award.

ISSUES

The Administrative Law Judge awarded claimant benefits for a 7 percent permanent partial disability based upon functional impairment. Respondent contends the evidence establishes claimant suffered a permanent aggravation due to employment claimant did after leaving work for respondent. The only medical opinion in evidence was given after the subsequent aggravation and respondent contends claimant has failed to show the extent, if any, of the impairment claimant suffered as a result of the injury he sustained in the course of his employment for respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes that the Award should be affirmed. The Board does so on the basis of the

findings of facts and conclusions of law stated in the original Award, which findings and conclusions are hereby adopted by the Board as its own.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Julie A. N. Sample on December 22, 1998, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of April 1999.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Jon K. Lowe, Kansas City, MO
Eric T. Lanham, Kansas City, KS
Julie A. N. Sample, Administrative Law Judge
Philip S. Harness, Director